

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 05/01/2012
POSITION: Neutral

BILL NUMBER: SB 1058
AUTHOR: Lieu, Ted

BILL SUMMARY: Victims of Corporate Fraud Compensation Fund.

This bill would codify the process and requirements for victims of corporate fraud filing a claim with the Secretary of State (SOS) seeking compensation from the Victims of Corporate Fraud Compensation Fund (VCFCF).

FISCAL SUMMARY

The SOS indicates that this bill would result in \$123,000 special fund one-time costs in 2012-13 and \$98,000 special fund annually thereafter to support one position to implement the provisions of this bill. The SOS anticipates workload associated with processing claims, revising forms, updating information, and promulgating conforming regulations. Any request for additional expenditure authority is subject to review and approval through the annual budget process.

The VCFCF is a continuously appropriated fund and collects approximately \$1.4 million annually through a \$2.50 annual disclosure fee paid by corporations.

The California Constitution requires the state to reimburse local entities for increased costs associated with any new program or higher level of service imposed by the state on local entities if the Commission on State Mandates determines that the new program or higher level of service is reimbursable and a state mandate. Any local government costs resulting from the mandate in this measure would not be state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

COMMENTS

The Department of Finance is neutral on this bill because it would simplify the claims process for victims of corporate fraud and would provide for quicker payouts of restitution to victims.

Existing law:

- Establishes the VCFCF within the State Treasury for the purpose of providing restitution to victims of corporate fraud.
- Authorizes the SOS to administer the VCFCF and directs the SOS to adopt regulations regarding the administration of the fund and eligibility requirements for victims.
- Directs \$2.50 of the disclosure fee required to be paid by corporations when filing their annual Statements of Information with the SOS to the VCFCF.

This bill would codify regulatory requirements for the administration of the VCFCF. Victims who obtain a final judgment in a court of law against a corporation for fraud, misrepresentation, or deceit fraud may file an application with the SOS for payment from the VCFCF for the unpaid amount on the judgment and

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BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

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COMMENTS (continued)

would be required to provide to the SOS, at the time of application, supporting documents including the final court judgment. The claimant would also be required to declare that he or she is not associated with the offending corporation, does not have a pending claim, and has not collected any of the final judgment from any other fund. The SOS would be required to provide timely notice to the corporation and claimant with respect to an application and to render a final written decision on the application within 90 days. This bill would authorize the SOS to satisfy any unpaid awards or settlements when sufficient funds are deposited in the VCFCF and would increase the maximum amount available to any one claimant for a single judgment from \$20,000 to \$50,000. This bill would authorize an appeals process for a claimant whose application was denied and would require the SOS to notify the corporation that was found to have committed fraud against the claimant that an application for restitution from the VCFCF has been submitted.

On October 9, 2011, the Sacramento Bee reported on the challenges faced by approximately 500 elderly victims of corporate fraud that were seeking compensation from the VCFCF. The article detailed the bureaucratic hurdles faced by one of the victims. According to the author's office, this bill is intended to streamline the procedures for providing restitution to victims from the VCFCF and compensate victims more quickly.

The SOS indicates that since the inception of the VCFCF in 2002 through August 1, 2011, it received 701 claims from victims of which five claims were awarded, one settled during litigation, and one court appeal confirmed the SOS' settlement offer. All seven claims resulted in a total payout of approximately \$92,000. Of the remaining claims, 28 were withdrawn, 105 did not qualify for payment because they did not meet the eligibility criteria established by the SOS and 561 claims were still pending.

By March 2012, the SOS had reduced the backlog and approved a total of 225 claims for approximately \$2.1 million in payouts. Although the SOS has accelerated processing claims and reduced the backlog of claims since the newspaper article appeared, which could imply that the current system is adequate to process claims expeditiously, the SOS does support this bill to make the process more efficient. This bill would allow for a more streamlined application process and provide better guidance for the SOS in resolving claims of corporate fraud with the intent of providing more timely payments of restitution to victims of corporate fraud.

		(Fiscal Impact by Fiscal Year)					
Code/Department	SO	(Dollars in Thousands)					
Agency or Revenue	LA						
Type	CO	PROP					Fund
	RV	98	FC	2012-2013 FC	2013-2014 FC	2014-2015	Code
0890/Secty State	SO	No	C	123 C	98 C	98	3042
8885/Comm St Mndt	LA	No		----- See Fiscal Summary -----			0001
<u>Fund Code</u>	<u>Title</u>						
0001	General Fund						
3042	Victims of Corporate Fraud Compensation						